

REMARKS

Reconsideration is respectfully requested. Claims 1-8 were present in the application. Claim 1 is amended herein. New claim 9 is added. Claims 2-8 are canceled.

Claim 1 is objected to regarding the word "possibility". The claim is amended to address the Examiner's concern

Claims 1, 2, 3 and 5 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Ngan in view of L'Enfant.

Applicant respectfully traverses

The applicant studied the US Patents 6,499,589 in the name of Ngan and 1,735,324 in the name L'Enfant and believes that they do not defeat novelty of the claim 1 as amended.

At not fully open shells the construction according to Ngan has a slippery condition: if the shells are half open it makes a consumer to put the device on its side edge (see fig.3) that is connected with very close location of pivot points. That is why it is impossible to realize in this technical solution the feature described in claim 1 of the application, namely "each pivot being located, away from the external border of the corresponding part of the body, at a distance which is selected according to a condition excluding the return of the body parts to the initial position by the weight of the bottom and the weight of the glass container at a preset opening angle of the body parts". Indeed, let's imagine a glass container instead of a

toy car (fig.3). If one puts it on ribs on the base such a construction certainly should fold. The shells 122 should necessarily be fully opened as it is shown in Fig.1 of Ngan. Therefore, being aware of this construction one can assert that it would never work at not fully opened shells without its putting on the side edge for rigidity. At not fully opened shells and locating a glass container on a stand, the construction without its putting on the side edge will fold into closed position due to the weight of a glass container. If the construction is put on the side edge and a glass container is located on the platform, it will overturn! To avoid the container's overturning there should necessarily be two objects balancing one another, from two sides of the platform.

However, it was necessary for the applicant (for saving a glass container from the consumer's careless movement or for its saving from strokes on glass) that the shells are not wholly opened and, at the same time, that they are not closed due to the container's weight and to exclude the possibility of their closing in half-open position. For this purpose it is important to locate the pivots at a preset distance, conditions of determining of which is set in claim 1 of the invention.

In spite of presence of a flexible strap for limitation of the shells opening in L'Enfant's patent there is no lifting platform in it. When situating a glass container into a box according to L'Enfant the shells will fold (see fig.3). Looking

through the present application (see figs. 2, 3) it is clear even for a not skilled person that the applicant solves a rather different problem, namely, to avoid the shells' (parts 2 of the body) folding. To avoid the shells' folding it is necessary that the center 6 of mass of each body part 2 passes through the corresponding vertical plane 7 going through points 8 of contact between the body part 2 and the supporting surface. Thus (Fig.2 of the present application), the parts 2 of the body can fold, and when the according mass of parts 2 of the body is chosen, they will pass through the corresponding vertical plane 7 (see Fig.3) and will never fold. A flexible limiter 10 in the applied device is compulsory; otherwise the parts 2 will wholly open and fall on the supporting surface.

The technical solution according to applicant is related to Ngan and L'Enfant patents only by that they refer to one and the same field of techniques and by presence of some alike constructive elements. But the elements themselves are of different functions, connections between the construction elements are different, and the technical solutions of Ngan and L'Enfant patents do not solve the problem set by the applicant and do not achieve its technical result.

Accordingly, the combination of Ngan and L'Enfant will not produce applicant's claim 1.

Claims 6, 7 and 8 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Ngan in view of L'Enfant and further in view of Kleinberg.

While claims 6, 7, 8 are canceled, to further prosecution of this application, applicant respectfully notes, however, the parts 13 and 14 of the body in the US Patent 2,390,945 in the name of Kleinberg (see Fig.1) are not provided with a means for situating an additional glass container. In the parts 13 and 14 the similar objects are situated. It is clear for a person skilled in art that from all figs. 1-4 of Kleinberg does not follow Fig. 3 of the present application, in which mass of additional container 12 serves for increase of the moment of rotation of part 2 of body 1.

With regard to the comments in numbered paragraph 9 of the action, as it was pointed by the applicant, Ngan, L'Enfant and Kleinberg never solved and have no means for solving the problem set by the applicant and providing the technical result. They have no means providing not closing of a box opened by a consumer. In Kleinberg's patent both parts 13 and 14 of the body should be filled. There is no central element, which is heavy glass container. Let's imagine that we put a glass container, for example, a bottle with beverage, into part 13 only. The body with a glass container will overturn! Additional container 12 in the present application No. 10/516,568 serves for increase of the

moment of rotation and is compulsory used at presence of container 4 (see Fig.3).

It is impossible to combine Ngan, L'Enfant and Kleinberg to obtain the invention described in the present application No. 10/516,568. Looking at figures of all these patents it is impossible to understand how they should be combined to obtain, for example, Fig. 3 of applicant's present application No. 10/516,568.

Regarding numbered paragraph 10 of the office action, the applicant's explanations are set above. It is not clear for a person skilled in art how Ngan, L'Enfant and Kleinberg should be combined for obtaining the applied invention. These patents have no means providing not closing of shells of body opened by a consumer.

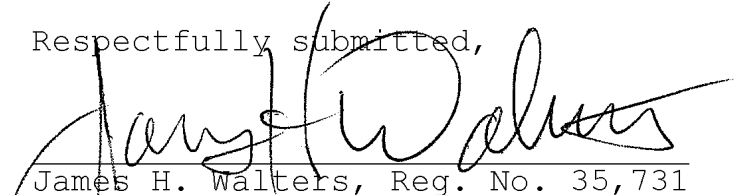
Regarding numbered paragraph 11 of the office action, Kleinberg has no additional storage place as it has no main object for storing. As it was noted above at not fully opened shells in Ngan's invention they will, certainly, close (see Fig 3 of Ngan), and it is necessary to put them on the side edge to avoid their closing; and in L'Enfant's patent at not fully opened shells and placing a glass container into a box, the shells also will close as there are no means preventing this (see Fig.3 of L'Enfant).

New claim 9 is added, support being found at page 4, lines 21-26 of the specification. This claim is also submitted to be allowable.

In light of the above noted amendments and remarks, this application is believed in condition for allowance and notice thereof is respectfully solicited. The Examiner is asked to contact applicant's attorney at 503-224-0115 if there are any questions.

It is believed that no further fees are due with this filing or that the required fees are being submitted herewith. However, if additional fees are required to keep the application pending, please charge deposit account 503036. If fee refund is owed, please refund to deposit account 503036.

Respectfully submitted,


James H. Walters, Reg. No. 35,731

Customer number 802
patenttm.us
P.O. Box 82788
Portland, Oregon 97282-0788 US
(503) 224-0115
DOCKET: V-302

Certification of Electronic Transmission

I hereby certify that this correspondence is being electronically transmitted to the Patent and Trademark Office via the EFS system on this April 25, 2008.